

FIRST AMENDMENT
TO
INTERLOCAL AGREEMENT
FOR THE
COLLECTION, DISTRIBUTION, AND EXPENDITURE
OF SCHOOL IMPACT FEES

I
RECITALS

A. The City of North Bend (“the City”) at the request of Snoqualmie Valley School District No. 410 (“the District”) and under the authority of the Growth Management Act, RCW 36.70A et seq. and RCW 82.02.050 et seq., adopted Ordinance 1260 providing for the collection of school impact fees on development activity to provide public school facilities to serve new development.

B. The City and District subsequently entered an Interlocal Agreement dated December 6, 2006 (“the Interlocal Agreement”).

C. The City and District desire to amend certain provisions of the Interlocal Agreement as set forth in the First Amendment.

II
AGREEMENT

UPON the foregoing premises, it is AGREED as follows:

1. Subsection A of Section II., Responsibilities of the District, is hereby amended to read as follows:

A. Annually submit to the City a six-year capital facilities plan or an update of a previously adopted plan which meets the requirements of the Act and Ordinance 1260 on or before August 1 of each year.

2. Subsections A and B of Section VI., Indemnification, are hereby amended to read as follows:

- A. The District shall, at its sole cost and expense, defend, protect, indemnify, and hold harmless the City, its officers, employees, and agents, from any and all claims, judgments, or award of damages of any nature whatsoever arising out of or in any way resulting from the acts or omissions of the District, its officers, employees, or agents, relating in any way to the City of North Bend's assessment or collection of school impact fees under Ordinance 1260 and specifically not including any amendments thereto. The City shall provide notice to the District of any such claim as soon as practicable in the circumstances and shall, as appropriate, tender defense thereof to the District within a reasonable time thereafter, not exceeding ten (10) days after service of any such claim on the City. The District shall be fully responsible for the defense thereof, and payment of any award or judgment resulting therefrom, or required refund of any impact fee. Other than the District's payment of any award or judgment or required refund of any impact fee, or any attorney's fees incurred by the City to compel the District to perform its obligations under this Section, the District shall not be liable for any of the City's attorney's fees or costs incurred for any such claim or suit.
- B. The foregoing indemnity shall extend, by way of example only and not limitation, to any claims, suits, judgments or award of damages arising out of or in any way resulting from the District's (by its officers, employees, agents, representatives or contracted consultants) negligent acts or omissions; intentional acts or omissions; any liability resulting from an audit of the District's impact fee account; any liability arising out of the District's calculation of the amount of the impact fee for any year; failure for any reason to comply with the terms of this Agreement; or violation of any local, state or federal law. This indemnity shall not cover any claim, judgment or award of damages arising out of the failure by the City to comply with procedural requirements for the validity of the adoption of any resolution or ordinance or arising out of matters for which the City has agreed to indemnify the District as set forth in Section VI(D) of the Interlocal Agreement. Other than the District's payment of any award or judgment or required refund of any impact fee, the District shall not be liable for any of the City's attorney's fees or costs incurred for any such claim or suit. In the event that the City fails to properly tender the defense to the District pursuant to this Section VI(A)(2), and such failure materially prejudices the District's ability to defend such claim or suit, the District shall have no obligations under this Section VI(A)(2).

3. Subsection A of Section III., Responsibilities of the City of North Bend, is hereby amended to read as follows:

- A. The City shall consider and act upon the District's updated Capital Facilities Plan and the proposed impact fee schedule for the District as set forth in that Plan, all within ninety (90) days of the District providing its updated Capital Facilities Plan to the City. In considering the updated Capital Facilities Plan and proposed impact fee schedule, the City shall give due consideration to the District's knowledge and experience in preparation of the Capital Facilities Plan required by RCW 36.70A.070(3) and Ordinance 1260. If the City chooses not to adopt the Capital Facilities Plan as submitted by the District and/or proposes to adopt an impact fee schedule containing impact fees less than those contained in the District's updated Capital Facilities Plan, the City shall provide the District with a written report explaining the City's decision to decline adoption of the Capital Facilities Plan and/or to adopt a lower fee. Following the District's receipt of such written report, the District shall have the option to request that the City Council and the School District Board of Directors hold a joint meeting to attempt to resolve the issue; provided, the City Council shall have sole authority to determine the impact fee schedule to be imposed by ordinance pursuant to its authority to promote the public health, safety and welfare. In no event shall the City unilaterally change or amend the Capital Facilities Plan.

4. All other provisions of the Interlocal Agreement not specifically amended herein shall remain in full force and effect.

CITY OF NORTH BEND

SNOQUALMIE VALLEY SCHOOL
DISTRICT NO. 410

Kenneth G. Hearing, Mayor

Joel Aune, Superintendent

APPROVED AS TO FORM:

APPROVED AS FORM:

Attorney for City of North Bend

Attorney for Snoqualmie Valley School
District No. 410